

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



November 18, 2010

Phil Feola, Goulston & Storrs
2001 K ST NW, 11th Floor
Washington, DC 20006-1042

Dear Mr. Feola:

After reviewing your November 12th Memorandum, I have reconsidered the question of whether the Wardman West Residential Project must comply with the Inclusionary Zoning ("IZ") regulations contained in Chapter 26 of the Zoning Regulations. In resolution of this question, I have made the following conclusions:

1. Based on my review of the legislative history of Zoning Commission Order no. 04-33, I interpret 11 DCMR § 2602.1 to mean that residential additions to existing commercial buildings are only subject to IZ if they have more than 10 units and increase the gross floor area ("GFA") of the entire development by 50% or more. As the Wardman West Residential Project is an addition to the Wardman Park Hotel Complex and does not increase the GFA of the entire development by more than 50%, I conclude that it is exempt from IZ by 11 DCMR § 2602.1(c)(iii).¹
2. My interpretation of 11 DCMR § 3202.4(a) remains unchanged. This provision requires a permit holder to begin construction within two years. If not, the permit holder must comply with the current Zoning Regulations and not the regulations "in effect on the date the permit [was] issued." The Wardman West Residential Project was approved under a building permit issued on January 15, 2008 (#B101045). Because JBG did not begin construction before January 15, 2010 (two years after the issuance of the permit no. B101045), the project is now subject to the current Zoning Regulations.² Although permit no. B101045 was extended, I do not interpret the granting of an extension to have the effect of creating a new two-year time limit.

¹ The November 12th Memorandum represents that the existing Wardman Park development is approximately 1.2 million sq. ft. and that the proposed Wardman West addition is approximately 280,000 sq. ft.

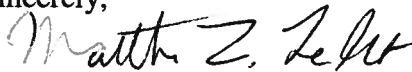
² For the reasons set forth in paragraph 1, the project remains exempt from IZ under 11 DCMR § 2602.1(c)(iii).

I am not persuaded by the interpretation proffered in the November 12th Memorandum that the "two year window of construction begins after the last extension is granted." Such an interpretation is not supported by the text of § 3202.4(a) or Zoning Commission Order no. 588.

3. As I have concluded that the project is now subject to the current Zoning Regulations, the building plans should re-reviewed by the Office of the Zoning Administrator. As JBG has indicated that it may seek to alter its construction plans to increase the number of units, this review can be accomplished two ways. If the construction plans are going to remain unchanged, I can simply re-review the plans submitted in obtaining building permit no. B101045 for consistency with the current Zoning Regulations. If the plans remain compliant, I can provide you with a confirmation letter. If JBG is intending to alter its construction plans, it may be more efficient for this review to occur when JBG submits its new building plans. Please inform me as to whether there will be any changes to the plans within the next 10 days.

If you have any questions regarding this letter, you can contact me via email at matt.legrant@dc.gov or by calling me at (202) 442-4652.

Sincerely,



Matthew LeGrant
Zoning Administrator

cc: Kinley Bray, Arent Fox LLP
Ellen McCarthy, Arent Fox LLP
Matt Valentini, JBG LLC
Linda Argo, Director DCRA
Melinda Bolling, General Counsel
Jay Surabian, Assistant Attorney General